

THE UNITED STATES DISTRICT COURT  
THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JERRY L. COCHRANE

Plaintiff,

vs.

Case No. 06-12504

HONORABLE PAUL D. BORMAN

HONORABLE STEVEN D. PEPE

JOSEPH WILSON, et al.

Defendants.

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**Order Adding Bradford E. Curry as a Defendant in the Caption of Plaintiff's Complaint  
and  
Denying Plaintiff's Motion for Sanctions (Dkt. #17) and Judicial Notice (Dkt. #20)**

On December 18, 2006, Plaintiff filed his Ex Parte Motion/Brief For Sanctions indicating that Defendants have refused to accept service and seeking costs against the Defendants (Dkt. #17). Plaintiff also filed a December 30, 2006, motion seeking judicial notice that Defendants refuse to accept service made by the Plaintiff (Dkt. #20). All pretrial matters were referred to the undersigned on June 13, 2006, pursuant to 28 U.S.C. § 636 (b)(1)(A). For the reasons indicated below, **IT IS ORDERED THAT** Plaintiff's motions are **DENIED**.

On December 18, 2006, the undersigned issued an order directing the United States Marshals to serve a copy of Plaintiff's complaint and summons upon each Defendant, which was done on December 19. On December 28 a waiver of service was returned executed by Defendants Joseph Wilson and Bradford E. Curry (Dkt. ##18 & 19). Because Defendants have been properly served, Plaintiff is not required to take any further action to serve Defendant's

with copies of his complaint. Under Fed. R. Civ. P. 4(d)(3) each defendant has 60 days from December 19 to answer the Complaint. Because service of Defendants has been waived Plaintiff's motions are rendered moot and are therefore **DENIED**.

A review of the complaint reveals that while Plaintiff has listed Joseph Wilson as a defendant in the caption of his complaint he has failed to include Bradford E. Curry in the same caption or attach documentation to his complaint indicating Mr. Curry should be listed as a defendant. Mr. Curry is described as a defendant in the body of Plaintiff's complaint and Plaintiff has attached a document to his application to proceed without prepayment of fees and cost, which does name Mr. Curry as an additional defendant (Dkt. #2). Yet, because Mr. Curry is not listed as a defendant in the caption of Plaintiff's complaint, he is unable to file an appearance. **IT IS THEREFORE ORDERED THAT** the caption of Plaintiff's complaint shall be amended to include Bradford E. Curry as a defendant, so that he may proceed with his responsibilities in this case.

**SO ORDERED.**

Date: January 11, 2007  
Ann Arbor, Michigan

s/Steven D. Pepe  
United States Magistrate Judge

CERTIFICATE OF SERVICE

I hereby certify that on January 11, 2007, I electronically filed the foregoing paper with the Clerk Court using the ECF system which will send electronic notification to the following: not applicable, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: Jerry Cochran, #210173, St. Louis Correctional Facility, 8585 N. Croswell Rd., St. Louis, MI 48880

s/ James P. Peltier  
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